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## EX PARTE PRESENTATION

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: Ex Parte Presentation in WT Docket No. 12-70, *Service Rules for Advanced Wireless Services in the 2000-2020 MHz and 2180-2200 MHz Bands*; ET Docket No. 10-142, *Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525-1559 MHz and 1626.5-1660.5 MHz, 1610-1626.5 MHz and 2483.5-2500 MHz, and 2000-2020 MHz and 2180-2200 MHz*; and WT Docket No. 04-356, *Service Rules for Advanced Wireless Services in the 1915-1920 MHz, 1995-2000 MHz, 2020-2025 MHz and 2175-2180 MHz Bands*

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, DISH Network Corporation ("DISH") submits this letter summarizing a telephone call between the undersigned and Zachary Katz, Chief of Staff for Chairman Julius Genachowski.

During the call, DISH urged the Commission to complete the above-referenced rulemaking as expeditiously as possible, and maintain the existing band plan, consistent with the AWS-4 NPRM.<sup>1</sup> DISH explained that proposals to alter its assigned frequencies or impose new emissions limits would cause a net loss of spectrum available in all bands to provide service to the public—and are not necessary for a possible future auction of H Block spectrum. DISH supports making the H Block viable for auction, but this goal can be accomplished without jeopardizing the ability to deploy mobile broadband services in the AWS-4 band (2000-2020 MHz and 2180-2200 MHz).

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<sup>1</sup> Service Rules for Advanced Wireless Services in the 2000-2020 MHz and 2180-2200 MHz Bands, WT Docket No. 12-70, Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525-1559 MHz and 1626.5-1660.5 MHz, 1610-1626.5 MHz and 2483.5-2500 MHz, and 2000-2020 MHz and 2180-2200 MHz, ET Docket No. 10-142, Service Rules for Advanced Wireless Services in the 1915-1920 MHz, 1995-2000 MHz, 2020-2025 MHz and 2175-2180 MHz Bands, WT Docket No. 04-356, *Notice of Proposed Rulemaking and Notice of Inquiry*, FCC 12-32 (rel. Mar. 21, 2012) ("AWS-4 NPRM").

First, DISH reiterated that a 5 MHz upward shift of the AWS-4 uplink would needlessly inject serious delay and risk to DISH's planned deployment.<sup>2</sup> In particular, forcing DISH to move its uplink to 2005-2025 MHz would render unusable at least 25 percent of the AWS-4 uplink allocation. DISH would have to sacrifice a portion of its new uplink allocation (2020-2025 MHz) in order to protect itself from the high power Broadcast Auxiliary Service ("BAS") and government operations in the 2025 – 2110 MHz band.<sup>3</sup> Changing DISH's assigned frequencies thus would result in a net loss of 5 MHz of spectrum for mobile broadband, which would be a lose-lose for DISH and consumers and, hence, the public interest. Moreover, this loss of spectrum would hamper DISH's ability to become a new competitive entrant. Because DISH will be facing terrestrial mobile broadband incumbents with far more significant spectrum holdings, it needs at least 40 MHz of spectrum to compete.

Second, DISH stressed that it would be premature and legally inappropriate to define technical rules for the H Block in the present proceeding. Nor should the Commission assume without an adequate record that H Block must be used for higher power operations in order to be attractive to bidders in an auction. Sprint's proposal for an emissions limit of -40 dBm/MHz at 2000 MHz<sup>4</sup> would, much like the upward shift, cause DISH to lose at least 25 percent of its uplink spectrum (in this case 2000 – 2005 MHz). Such restrictive power limits would also impose other significant costs and downsides relating to deployment and equipment design. This would jeopardize new mobile broadband service in the AWS-4 band in the hope of using H Block for higher power uses in the future. But, as DISH, Sprint, and AT&T all agree, many technical issues with the H Block remain to be resolved before service rules can be promulgated and an auction planned.<sup>5</sup>

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<sup>2</sup> See, e.g., Letter from Jeffrey H. Blum, DISH, to Marlene H. Dortch, Secretary, FCC, WT Dkt. Nos. 12-70 and 04-356 and ET Dkt. No. 10-142 (Aug. 28, 2012).

<sup>3</sup> See Letter from Jeffrey H. Blum, DISH Network Corporation, to Marlene H. Dortch, Secretary, FCC, WT Dkt. Nos. 12-70 and 04-356 and ET Dkt. No. 10-142, Attachment at 3 (Sept. 17, 2012) ("Exclusion zones to provide increased physical isolation from the interferers would essentially preclude service in the 2020-2025 MHz block in BAS markets or near earth stations.").

<sup>4</sup> See Letter from Stephen Bye and Lawrence Krevor, Sprint Nextel Corporation, to Chairman Genachowski, FCC, WT Dkt. Nos. 12-70, 04-356, ET Dkt. No. 10-142 (Oct. 2, 2012) ("[T]he Commission should establish reasonable service rules that provide H Block operations with the same level of protection from 2 GHz S Band interference as the PCS G Block.").

<sup>5</sup> See Letter from Jeffrey H. Blum, DISH Network Corporation, to Marlene H. Dortch, Secretary, FCC, WT Dkt. Nos. 12-70 and 04-356 and ET Dkt. No. 10-142, at 5 (Oct. 10, 2012). See also Comments of Sprint Nextel Corporation, ET Dkt. No. 10-142, WT Dkt. Nos. 04-356 and 07-195, at 4 (July 8, 2011) (explaining that "H Block uplink operations at 1915-1920 MHz would pose a serious interference threat to G Block transmissions and other PCS operations"); Letter from Joan Marsh, Vice President – Federal Regulatory, AT&T, Inc. to Marlene H. Dortch, Secretary, FCC, WT Dkt. Nos. 12-70 and 04-356 and ET Dkt. No. 10-142, at 3 (Oct. 5, 2012) (noting that "[b]ecause of the serious interference concerns and the significant operational challenges involved, the H Block should not be used for commercial mobile service").

Thus, both the 5 MHz upward shift and the imposition of stringent power limits on AWS-4 would be contrary to the Commission's goals and the public interest by effectively consigning 5 MHz of usable spectrum to guard band status. The Commission can preserve all 40 MHz of AWS-4 spectrum *and* auction the H Block, thereby maximizing the total amount of usable spectrum for mobile broadband, through appropriate uses of the H Block. These options include small-cell LTE broadband and air-to-ground services in both the H Block uplink (1915-1920 MHz) and downlink (1995-2000 MHz).

In short, DISH urges the Commission to move expeditiously to adopt final AWS-4 rules based on the existing band plan and interference protections consistent with existing 2 GHz requirements and 3GPP standards.

Respectfully submitted,

/s/ Jeffrey H. Blum

Jeffrey H. Blum

cc: Zachary Katz